

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

ARTHROCARE CORPORATION,

Plaintiff,

v.

SMITH & NEPHEW, INC.

Defendant.

C.A. No. 01-504-SLR

SMITH & NEPHEW, INC.,

Counterclaim Plaintiff,

v.

ARTHROCARE CORPORATION, AND
ETHICON, INC.,

Counterclaim Defendants.

SMITH & NEPHEW'S NOTICE PURSUANT TO 35 U.S.C. § 282

Defendant Smith & Nephew, Inc. ("Smith & Nephew") hereby provides its written notice pursuant to 35 U.S.C. § 282 of the patents and publications that it may rely upon to anticipate, render obvious or show the state of the art with respect to United States Patent No. 5,697,536 ("the '536 patent"), 5,697,882 ("the 882 patent"), and 6,224,592 ("the '592 patent"). Smith & Nephew may also rely on the persons listed below as being prior inventors or having prior knowledge of or as having previously used or offered for sale the inventions of the patents-in-suit. Smith & Nephew also incorporates by reference the items set forth in its responses to Plaintiff's Interrogatories and in the expert reports of Dr. Kenneth Taylor, Dr. Michael Choti, Dr. Kim Manwaring and Ronald Panitch, Esq.

Furthermore, in light of the recent filings by the parties on proposed claim construction, Smith & Nephew reserves the right to further supplement this notice depending on the Court's ruling on claim construction and/or possible new claim constructions.

I. PRIMARY REFERENCES RELIED UPON

A. PATENTS

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(3)	US	3,828,780	8/13/74	Morrison, Jr.
(4)	US	3,901,242	8/26/75	Storz
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(6)	US	3,939,839	2/24/76	Curtiss
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B. PUBLICATIONS

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(2)	A.K. Dobbie	The Electrical Aspects of Surgical Diathermy	<i>Bio-Medical Engineering</i> 206-216	5/69
(3)	Honig	The Mechanism of Cutting in Electrosurgery	<i>IEEE Transactions On Biomedical Engineering</i>	1/75
(4)	Elasser and Roos	Uber ein Instrument zur leckstromfreien transurethralen Resection (Concerning An Instrument for Transurethral Resection Without Leakage of Current)	<i>Acta Medicotechnica</i> (Medizinal-Markt), Vol. 24, No. 4, 129-134	1976

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(7)	Barry MS et al.	The effect of radiofrequency-generated thermal energy on the mechanical and histologic characteristic of the arterial wall in vivo: Implications for radiofrequency angioplasty	<i>CRC Press, American Heart Journal</i> , Vol. 117, 332-341	2/82
(8)	Swain et al.	Which Electrode? A comparison of four endoscopic methods of electrocoagulation in experimental bleeding ulcers	<i>Gut</i> , 25, 1424-1431	1984
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(11)	Jerry L. Malis	Letter from Jerry L. Malis to Food and Drug Administration		7/25/85
(12)	Ramsay et al.	A Comparison of Bipolar and Monopolar Diathermy Probes in Experimental Animals	<i>Urological Research</i> 13:99-102	1985
(13)	Leonard I. Malis, M.D.	Instrumentation for Microvascular Neurosurgery	<i>Cerebrovascular Surgery</i> , Vol 1, 245-260.	1985

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(21)	Lee et al.	Thermal Compression and Molding of Atherosclerotic Vascular Tissue With Use of Radiofrequency Energy: Implications for Radiofrequency Balloon Angioplasty	<i>JACC</i> Vol. 13 No. 5, 1167-75	4/89
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(31)	Leonard I. Malis, M.D.	The Value of Irrigation During Bipolar Coagulation	See ARTC 21602	At least as early as 4/9/93
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(33)	Leonard I. Malis, M.D.	New Trends in Microsurgery and Applied Technology	See ARTC 21596-21600	At least as early as 4/9/93
(34)	Leonard I. Malis, M.D.	Excerpted from a seminar by Leonard I. Malis, M.D. at the 1995 American Association of Neurological Surgeons Meeting		1995
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III. Public Domain Books

B. PUBLICATIONS

	Author	Title	Date	Page Nos.
(1)	John A. Pierce	Electrosurgery	1986	1-251.

IV. Individuals

(1) Eberhard Roos

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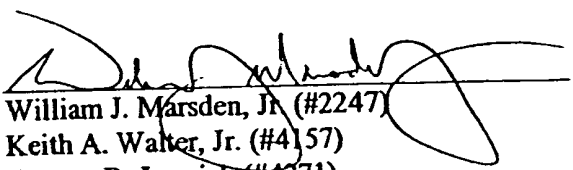
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CERTIFICATE OF SERVICE

I hereby certify that on this 28th day of March, 2003, a true and correct copy of the SMITH & NEPHEW'S NOTICE PURSUANT TO 35. U.S.C. § 282 was caused to be served on the attorneys of record at the following addresses as indicated:

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